

IN THE UNITED STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF OKLAHOMA

JONAS PESINA,

Petitioner,

vs.

STATE OF OKLAHOMA,

Respondent.

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No. CIV-15-744-W

**ORDER**

On October 22, 2015, United States Magistrate Judge Suzanne Mitchell issued a Report and Recommendation in this matter and recommended that the Amended Petition for a Writ of Habeas Corpus ("Amended Petition") [Doc. 8] filed by petitioner Jonas Pesina pursuant to title 28, section 2241 of the United States Code be dismissed for failure to comply with the rules of this judicial district and for failure to prosecute. Jonas Pesina was advised of his right to object, see Doc. 13 at 4, but no objections have been filed within the allotted time.

Upon review of the record, the Court concurs with Magistrate Judge Mitchell's suggested disposition of this matter. At the time Pesina commenced this action in July 2015, he was a pretrial detainee being held in Jackson County Law Enforcement Center. Because Magistrate Judge Mitchell believed that she was "unable to ascertain . . . what [Pesina was] . . . attempting to challenge [in his Amended Petition,]" Doc. 11, she ordered Pesina to complete and file another petition. See id. She directed him to clearly state in that document "on what basis he . . . [was] being held . . . and precisely why he believe[d] his pretrial detention . . . [was] unconstitutional." Id. at 2.

A copy of that Order together with a copy of a petition form was mailed by the Clerk of the Court to the address listed by Pesina in his Amended Petition. See Rule 5.4(a), Rules of the United States District Court for the Western District of Oklahoma (papers sent to last known address deemed delivered). The papers were returned by the United States Postal Service with the following notations on the envelope: "RTS" "Not Here" "Return to Sender" "Not Deliverable as Addressed" "Unable to Forward." Doc. 12 at 14.

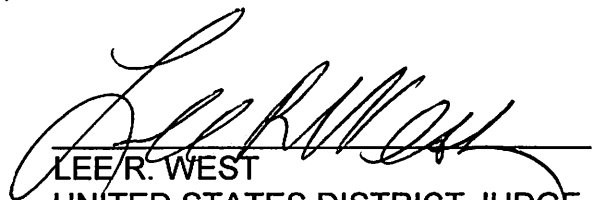
The Clerk also mailed a copy of Magistrate Judge Mitchell's Report and Recommendation to Pesina at that same address; that document was likewise returned by the United States Postal Service. The envelope again read: "RTS" "Not Here" "Return to Sender" "Not Deliverable as Addressed" "Unable to Forward." Doc. 14 at 1.

Rule 5.4(a), supra, requires pro se litigants to provide the Court with a current mailing address and to file with the Clerk notice of any change of address. Pesina has not complied with this rule, and the Court is therefore unable to communicate with him. Accordingly, dismissal of the Amended Petition is warranted due to Pesina's failure to comply with the rules of this judicial district and for failure to diligently prosecute this action.

The Court therefore

- (1) ADOPTS the Report and Recommendation [Doc. 13] filed on October 22, 2015;  
and  
(2) DISMISSES Pesina's Amended Petition [Doc. 8] without prejudice.

ENTERED this 13<sup>th</sup> day of November, 2015.

  
LEE R. WEST  
UNITED STATES DISTRICT JUDGE